
To: Odwalla, Inc. (kaking@na.ko.com)
Subject: TRADEMARK APPLICATION NO. 78484217 - ODWALLA
SUPERFOOD - N/A
Sent: 5/23/06 6:17:51 PM
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Attachments:

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 78/484217

APPLICANT: Odwalla, Inc.

CORRESPONDENT ADDRESS:
KAMAU J. KING
THE COCA-COLA COMPANY
1 COCA COLA PLZ NW
ATLANTA, GA 30313-2499

RETURN ADDRESS:
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

If no fees are enclosed, the address should
include the words "Box Responses - No Fee."

MARK: ODWALLA SUPERFOOD

CORRESPONDENT'S REFERENCE/DOCKET NO: N/A

CORRESPONDENT EMAIL ADDRESS:
kaking@na.ko.com

Please provide in all correspondence:

1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and e-mail address..

Serial Number 78/484217

This Office action is in response to applicant's correspondence dated May 5, 2005 in which applicant submitted a disclaimer statement and requested reconsideration of the likelihood of confusion refusal. The disclaimer statement has been accepted and made of record. The requirement for a disclaimer is now withdrawn. TMEP §714.04.

FINAL REFUSAL CONTINUED

The trademark examining attorney has carefully reviewed the request for reconsideration of the final refusal dated November 9, 2005 and is not persuaded by applicant's arguments. No new issue has been raised and no new compelling evidence has been presented with regard to the likelihood of confusion refusal at issue in the final action. TMEP §715.03(a). Accordingly, applicant's request for reconsideration is denied and the refusal is continued. 37 C.F.R. §2.64(b); TMEP §715.04.

The application file will be returned to the Trademark Trial and Appeal Board for resumption of the appeal.

/Melissa Vallillo/
Examining Attorney
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United States Patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Mailed: May 26, 2006

In re Odwalla, Inc.

Serial No. 78484217

Filed: 09/15/2004

James H. Johnson, Jr.
Sutherland Asbill & Brennan LLP
999 Peachtree Street, NE
Atlanta, GA 30309-3996

Janice D. Hyman, Paralegal Specialist:

In view of the decision by the Trademark Examining Attorney on May 23, 2006, the appeal is resumed; and applicant is allowed until sixty days from the date hereof in which to file its brief herein. A request for an oral hearing, if desired, must be made not later than ten days after the due date for applicant's reply brief.